

REMARKS

Reconsideration and withdrawal of the rejections of the application are respectfully requested in view of the above amendments and following remarks.

I. STATUS OF THE CLAIMS AND FORMAL MATTERS

Claims 1-6 and 8-10 are currently pending. Claims 1-6 and 8-10 are hereby amended. Claims 7 and 11 were previously canceled without prejudice or disclaimer of subject matter.

II. THE REJECTIONS UNDER 35 U.S.C. § 103(a)

Claims 1, 2, and 8-10 were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over U.S. Patent No. 7,077,830 to Higaki et al. ("Higaki"). Claims 1-6 and 8-10 were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over U.S. Patent No. 1,993,398 to Cislak ("Cislak") in view of Higaki.

As recited in independent claim 1, the instant invention is directed to *inter alia*:

"A device comprising a tool holder and a flexibly deformable tool, the tool holder comprising . . .

a support at the end of the tool holder having an end part of the channel opening to the outside of the body, widening toward the outside of the body . . . means to hold the tool after its flexion in such a way that at least a portion of the axis of the tool is in a direction not parallel to the axis of the body, the means being fixed to the support in the direction not parallel to the axis of the body."

The relied upon portions of Cislak do not teach or suggest the above identified features of claim 1. Specifically, Cislak does not teach or suggest "a support at the end of the tool holder having an end part of the channel opening to the outside of the body, widening toward the outside of the body." Moreover, Cislak does not teach or suggest a "means to hold the tool after

its flexion in such a way that at least a portion of the axis of the tool is in a direction not parallel to the axis of the body, the means being fixed to the support in the direction not parallel to the axis of the body.”

Rather, Cislak relates to a means of keeping a tool in a position that is parallel to the axis of the body, as clearly shown in Figure 1. As such, Cislak does not teach or suggest all limitations of the present invention. Even if a flexible tool were inserted into the Cislak body and then flexed, Cislak does not teach or suggest a means to: 1.) keep the tool in such a position and 2.) in such a way that at least a portion of the axis of the tool is not parallel to the axis of the body.

As recited in independent claim 1, the instant invention is also directed to *inter alia*:

“A device comprising a tool holder and a flexibly deformable tool, the tool holder comprising . . .

means to hold the tool . . . the means being fixed to the support in the direction not parallel to the axis of the body.”

The relied upon portions of Higaki do not teach or suggest the above identified features of claim 1. Specifically, Higaki does not teach or suggest “means to hold the tool . . . the means being fixed to the support in the direction not parallel to the axis of the body.” Similar to Cislak above, Higaki relates to a means of keeping a tool in a position that is parallel to the axis of the body, as clearly shown in Figure 1, to the contrary of a means being fixed to the support in the direction not parallel to the axis of the body.

Moreover, with respect to the Examiner’s comment that the specific alignment with the inferentially claimed tool is merely an intended use and, as such, is not given any patentable weight, Applicant has amended claim 1 to recite a “device comprising a tool holder and a flexibly deformable tool” to explicitly claim the flexibly deformable tool.

For at least the foregoing reasons, Applicants submit that independent claim 1 is patentable over the relied upon portions of Cislak and Hagaki.

III. DEPENDENT CLAIMS

The other claims are dependent from independent claim 1, discussed above, and are therefore believed patentable for at least the same reasons. Since each dependent claim is also deemed to define an additional aspect of the invention, however, the individual reconsideration of the patentability of each on its own merits is respectfully requested.

CONCLUSION


In view of the foregoing, it is believed that all of the claims in this application are patentable over the prior art, and an early and favorable consideration thereof is solicited.

Statements appearing above with respect to the disclosures in the cited references represent the present opinions of the Applicants' undersigned attorney and, in the event that the Examiner disagrees with any such opinions, it is respectfully requested that the Examiner specifically indicate those portions of the respective reference providing the basis for a contrary view.

Please charge any fees incurred by reason of this response and not paid herewith to Deposit Account No. 50-0320.

Respectfully submitted,
FROMMER LAWRENCE & HAUG LLP

By:


Ronald R. Santucci
Reg. No. 28,988
(212) 588-0800